

STATEMENT OF THE CASE

Kenneth Bartley appeals from his conviction for voluntary manslaughter, as a Class A felony, following a jury trial. Bartley raises two issues for our review:

1. Whether the trial court abused its discretion when it admitted certain photographs into evidence over Bartley's objection.
2. Whether the State presented sufficient evidence to defeat Bartley's claim of self-defense.

We affirm.

FACTS AND PROCEDURAL HISTORY

In the evening of November 20, 2007, Bartley called the Rainbow Taxi Company for a ride home from a bar. Bartley had had a couple of beers and was carrying a carpet knife that he had purchased earlier that day. Bartley frequently used that taxi company, although he was "fed up" with its service. Transcript at 472. Herbert "Chuck" Coomer responded to the cab request.

Coomer drove Bartley from the bar to Bartley's residence, incurring about a ten-dollar fare. Shortly thereafter, Coomer radioed into dispatch. Coomer told Clifford English, the dispatcher, that Bartley would not pay the fare and was being "belligerent." Id. at 158. Coomer then told English that Bartley wanted to pay in change, which resulted in Coomer leaving the cab to count the change. Outside the cab, Bartley killed Coomer with his carpet knife.

The next day, Tyrone Davis, Coomer's friend, noticed that Coomer had not returned from his prior night's shift. Davis knew that Coomer's last reported stop was Bartley's residence and drove there. Upon arriving, Davis saw Coomer's cab and blood, and so Davis called the police. An officer responded and found Coomer's body inside

the back seat of the taxi. Coomer had been cut thirty-seven times, two of which penetrated arteries. Wounds to the forearms, shoulders, and knees were consistent with defensive wounds.

On November 28, 2007, the State charged Bartley with murder. On January 31, 2008, the State filed an habitual offender enhancement. On September 29 and October 1-2, 2008, a jury trial was held, at which the trial court admitted numerous photographs of Coomer's body in the back of the taxi over Bartley's objection. Bartley's defense to the State's charge was that he killed Coomer in self-defense. The jury found Bartley guilty of voluntary manslaughter as a lesser-included offense to the charged crime of murder, and the trial court entered its judgment of conviction and sentence¹ accordingly. This appeal ensued.

DISCUSSION AND DECISION

Issue One: Admission of the Photographs

Bartley first challenges the trial court's admission of the State's Exhibits 23-27, photographs of Coomer's body in the back of his cab. Specifically, Bartley argues that the probative value of those photographs was substantially outweighed by the danger of unfair prejudice to him in light of their gruesome depictions. Our standard of review of a trial court's findings as to the admissibility of evidence is an abuse of discretion. Speybroeck v. State, 875 N.E.2d 813, 818 (Ind. Ct. App. 2007). A trial court abuses its discretion only if its decision is clearly against the logic and effect of the facts and circumstances before the court. Id.

¹ With the habitual offender enhancement, Bartley was ordered to serve seventy years' imprisonment. He does not appeal that sentence.

It is true that “evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice.” Ind. Evidence Rule 403. “‘Unfair prejudice’ addresses the way in which the jury is expected to respond to the evidence; it looks to the capacity of the evidence to persuade by illegitimate means, or the tendency of the evidence ‘to suggest decision on an improper basis’” Ingram v. State, 715 N.E.2d 405, 407 (Ind. 1999) (quoting 12 Robert Lowell Miller, Indiana Practice § 403.102 at 284 (1995) (footnotes omitted)). Regarding gruesome photographs in particular, our Supreme Court has held as follows:

Photographs depicting matters that a witness describes in testimony are generally admissible, and photographs depicting the crime scene are admissible as long as they are relevant and competent aids to the jury. The fact that a photograph or videotape may depict gruesome details of a crime is not a sufficient basis for exclusion.

Lee v. State, 735 N.E.2d 1169, 1172 (Ind. 2000) (citations omitted).

Again, Bartley argues on appeal that the photographs of the crime scene were gruesome, unnecessary, and unfairly prejudicial. The State does not dispute that the photographs were gruesome and that there is other evidence in the record describing the crime scene, Coomer’s injuries, and the cause of Coomer’s death. Nonetheless, we must agree with the State that the trial court did not abuse its discretion in admitting the photographs.

The State presented testimonial evidence that a number of Coomer’s wounds were consistent with defensive wounds. And, in response to Bartley’s objection to the admission of the photographs, the trial court stated as follows:

the Court notes that while [the photographs] may be gruesome, they are, in fact, pictures of the crime scene in which murder is the charge. Don’t think a jury is going to be—understand [sic] that there is going to be blood and

depiction of injuries and how the body was found, particularly since this is a self-defense claim.

Transcript at 226. That is, one of the reasons the court admitted the photographs was because they would be helpful to the jury in determining Bartley's self-defense claim. We agree with the trial court that the photographs of the crime scene were of particular aid to the jury's ability to determine the legitimacy of Bartley's defense. As such, we cannot say that the trial court abused its discretion in admitting that evidence. See Lee, 735 N.E.2d at 1172.

Issue Two: Self-Defense Claim

Bartley also argues on appeal that the State did not present sufficient evidence to rebut his claim of self-defense. As our Supreme Court has held:

A valid claim of defense of oneself or another person is legal justification for an otherwise criminal act. In order to prevail on such a claim, the defendant must show that he: (1) was in a place where he had a right to be; (2) did not provoke, instigate, or participate willingly in the violence; and (3) had a reasonable fear of death or great bodily harm. When a claim of self-defense is raised and finds support in the evidence, the State has the burden of negating at least one of the necessary elements. If a defendant is convicted despite his claim of self-defense, this Court will reverse only if no reasonable person could say that self-defense was negated by the State beyond a reasonable doubt. In any event, a mutual combatant, whether or not the initial aggressor, must declare an armistice before he or she may claim self-defense. Wooley v. State, 716 N.E.2d 919, 926 (Ind. 1999); see I.C. § 35-41-3-2(e)(3) (2002) (“[A] person is not justified in using force if: . . . the person has entered into combat with another person or is the initial aggressor, unless the person withdraws from the encounter and communicates to the other person the intent to do so and the other person nevertheless continues or threatens to continue unlawful action.”). The standard of review for a challenge to the sufficiency of evidence to rebut a claim of self-defense is the same as the standard for any sufficiency of the evidence claim. We neither reweigh the evidence nor judge the credibility of witnesses. If there is sufficient evidence of probative value to support the conclusion of the trier of fact, then the verdict will not be disturbed.

Wilson v. State, 770 N.E.2d 799, 800-01 (Ind. 2002) (some citations omitted; alteration original).

Here, Bartley testified that he was on his property; that he did not provoke, instigate, or participate willingly in the violence with Coomer; and that he had a reasonable fear of death or great bodily harm when he used his carpet knife to defend himself from Coomer's purported aggression. But the State presented evidence that Coomer, who was unarmed, had been cut thirty-seven times by Bartley and that some of Coomer's wounds were consistent with defensive wounds. The State's evidence permitted the jury to infer that Bartley did not reasonably fear death or great bodily harm when he used his carpet knife against Coomer. That same evidence also permitted the jury to infer that Bartley was a willing participant in the violence. Bartley's arguments on appeal are merely requests for this court to reweigh the evidence, which we will not do. Id. at 801.

Conclusion

In sum, the trial court did not abuse its discretion when it admitted into evidence the State's photographs of the crime scene. And the State presented sufficient evidence to rebut Bartley's claim of self-defense. Hence, we affirm Bartley's conviction.

Affirmed.

FRIEDLANDER, J., and VAIDIK, J., concur.